

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BEATRICE BROWN,

Plaintiff,

vs.

MICHAELS STORES, INC.,

Defendant.

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CIVIL ACTION

FILE NO. _____

DEFENDANT MICHAELS STORES, INC.'S NOTICE OF REMOVAL

COMES NOW, **MICHAELS STORES, INC.**, Defendant in the above-styled civil action, and hereby removes Civil Action File No. 23-C-08350-S3 from the State Court of Gwinnett County to the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1332, 1441 and 1446, and as grounds for its removal states as follows:

STATEMENT OF THE CASE

1.

Defendant Michaels Stores, Inc. has been sued in a civil action brought in the State Court of Gwinnett County, which is located within the Atlanta Division of the United States District Court for the Northern District of Georgia. Pursuant

to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, orders and documents from the State Court Action has been attached as Defendant Michaels Stores, Inc.’s Exhibit 1 (hereinafter “D-1”).

2.

The present matter is an action for damages for bodily injuries stemming from a December 12, 2021 incident alleged to have occurred at Defendant Michaels Stores, Inc. retail store located at 196 Alps Rd, Athens, GA 30606 (hereinafter “the subject incident”). D-1, Complaint, ¶ 2. Plaintiff makes claims against Defendant Michaels Stores, Inc. for (i) premises liability (ii) agency and vicarious liability and (iii) negligence per se. *Id.*, Complaint, ¶¶ 2-21.

3.

The Complaint was filed December 8, 2023, in the State Court of Gwinnett County, Civil Action File No. 23-C-08350-S3. *See* D-1, Complaint. Defendant Michaels Stores, Inc. was served with the Summons and Complaint on December 14, 2023.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)

4.

Upon information and belief, Plaintiff Beatrice Brown is a citizen of the State of Georgia. Defendant Michaels Stores, Inc. is, and was at the time this

lawsuit was filed, a corporation organized under the laws of the State of Delaware with its principal place of business in the State of Texas. Therefore, there is complete diversity of citizenship between the parties.

5.

Plaintiff contends that “As a direct and proximate result of the aforesaid accident, Plaintiff has incurred personal injuries, pain and suffering, and emotional trauma. Plaintiff shows further that these injuries required medical expenses in the amount of \$13,555.10. Therefore, Plaintiff is entitled to recover special damages in the amount of \$13,555.10. Furthermore, Plaintiff is entitled to recover general damages in an amount to be determined by a jury for past and future pain and suffering, past and future medical expenses, past and future emotional trauma, and interference with Plaintiffs normal living and enjoyment of life.” D-1, Complaint, ¶ 16. Plaintiff has also alleged that she is recommended to undergo a two-level Anterior Cervical Discectomy and Fusion surgical procedure. *Id.*, Complaint, ¶ 13. Plaintiff is also making a claim for lost wages in the amount of \$34,125.00. *Id.*, Complaint, ¶¶ 17-19. Further, Plaintiff asserted a settlement demand for \$250,000.00.

6.

In determining whether the requisite \$75,000.00 amount in controversy has been established, jurisdiction “is proper if it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement.” *Williams v. Best Buy Co., Inc.*, 269 F.3d 1319 (11th Cir. 2001). In the present case, given the damages claimed by Plaintiff, it is facially apparent from Plaintiff’s Complaint that the requisite \$75,000.00 amount in controversy requirement has been met.

**ALL PROCEDURAL REQUIREMENTS
FOR REMOVAL HAVE BEEN SATISFIED**

7.

This Notice of Removal is filed within 30 days from the date that Defendant Michaels Stores, Inc. has been served with the Summons and Complaint in this matter. Removal is, therefore, timely in accordance with 28 U.S.C. § 1446(b).

8.

Pursuant to 28 U.S.C. 1446(b)(2)(A), “all defendants who have been properly joined and served must join in or consent to the removal of the action.” As such, Defendant Michaels Stores, Inc. expressly consents to the removal of this action and the requirements of 28 U.S.C. § 1446(b)(2)(A) have been met.

CONCLUSION

By this Notice of Removal, Defendant Michaels Stores, Inc. does not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendant Michaels Stores, Inc. intends no admission of fact, law or liability by this Notice and expressly reserve all defenses, motions and/or pleas.

WHEREFORE, Defendant Michaels Stores, Inc. prays that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 14th day of December, 2023.

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CERTIFICATE OF COMPLIANCE

Undersigned counsel certify the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rule 5.1(C).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the undersigned has this day electronically filed the within and foregoing **DEFENDANT MICHAELS STORES, INC.'S NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will send e-mail notification of such filing to the following attorneys of record:

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This 14th day of December, 2023.

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